

WEST VIRIGNIA INFORMATIONAL LETTER

No. 25

June, 1984

TO: All Insurance Companies Licensed To Do Business
In The State of West Virginia, Insurance Trade
Associations, Insurance Media Publications And
All Other Interested Persons

The purpose of this Informational Letter is to briefly summarize the most significant insurance legislation and insurance related legislation which was enacted during the 1984 regular session of the West Virginia Legislature. This letter is not to be construed as inclusive of all legislation which may affect the insurance industry or insurance consumers, but rather, is intended merely to highlight some of the more important bills.

Persons seeking a copy of particular legislation should contact West Virginia Legislative Services, Room E-132, State Capitol, Charleston, West Virginia 25305, telephone, 304/348-2040.

INSURANCE LEGISLATION ENACTED

- S.B. 66 - Contractual Relationships Between Insurers And Agents – This bill provides that a property and casualty insurance company may terminate a captive agent who has been employed by that company for more than five years only for “good cause” as defined in the statute. An agent who has been terminated by an insurer in violation of the statute has a cause of action against the insurer for specific performance, injunctive relief or for damages sustained as a result of the termination. Code sections affected: New Article 12A is added to Chapter 33. Effective date: June 6th, 1984.
- S.B. 425 - Promulgation of Legislative Rule — This bill authorized the Insurance Commissioner to promulgate a legislative rule governing the licensing and conduct of excess line brokers. Code section affected: New Section 64-2-33(2)(10). Effective date: March 10th, 1984. (Please note, legislative rule itself becomes effective on July 1, 1984).
- H.B. 1267 - Determination Of Rates On Dwellings — This legislation provides that for purposes of determining premium rates for dwellings, commercial activity conducted by the insured shall not be considered unless conducted within the dwelling. Code section affected: New Section 33-20-17. Effective date: May 28th, 1984.
- H.B. 1400 - Compulsory Motor Vehicle Liability Insurance — This legislation made a number of changes in the existing compulsory motor vehicle liability insurance statute. Insurers are to notify the Department of Motor Vehicles of cancellation of a motor vehicle liability policy only when the cancellation is for one or more of the reasons specified in Section 33-6A-1(b)-(e). The period in which the insurer must notify the Department of Motor Vehicles of cancellation is now ten days from the effective date of cancellation, as opposed to the previous five day period. Insurers are not to notify the Department of Motor Vehicles of cancellation based upon nonpayment of premiums. Insureds must be furnished a duplicate certificate of insurance as opposed to the single certificate required under the prior statute. Insureds are required to present a current and valid certificate of insurance at the time of the required annual motor vehicle safety inspection. Finally, the act specifies administrative procedures for the revocation of a motor vehicle registration based upon the registrant’s failure to maintain a policy of liability insurance. Code sections affected: 17A-3-3, 17D-2A-4, 17D-2A-5, 17D-2A-6 and 17D-3-5. Effective date: March 8th, 1984.

- H.B. 1682 - Payment of Premium Tax — This legislation clarifies the language of Section 33-3-14c by providing that an insurer becomes subject to penalty for failure to timely pay premium tax on the day following the due date of the tax. The date of postmark of the premium tax return is established as the standard for determination of timely payment. Code section affected: 33-3-14c. Effective date: June 8th, 1984.
- H.B. 1919 - Investments By Insurance Companies — This bill amends the investment provisions of the Insurance Code to take into account advances in the investment field. Code sections affected: 33-8-23, 33-8-24, 33-8-25. Effective date: June 8th, 1984.

OTHER BILLS OF INTEREST

- S.B. 27 - Fire Prevention And Control Act — This bill requires installation of smoke detectors in all one and two family dwellings by the owner of the dwelling on or before July 1, 1985. The act provides that noncompliance with the statute shall not constitute evidence of negligence or a defense in any proceeding involving an insurance policy. Code Section affected: New Section 29-3-16a. Effective date: June 7th, 1984.
- S.B. 62 - Natural Death Act — This bill establishes procedures by which a person may provide for the withholding or withdrawal of life sustaining procedures if he or she is, or becomes, terminally ill. The act provides that withdrawal or withholding of life sustaining procedures does not constitute suicide, the crime of assisting suicide or impair or invalidate any life insurance policy. Persons may not be required to execute a declaration directing the withholding or withdrawal of life sustaining procedures as a condition to becoming insured or receiving health care services. Code sections affected: New Article 30 is added to Chapter 16. Effective Date: June 4th, 1984.
- S.B. 171 - Uniform Condominium Act — This legislation makes various changes in the present Uniform Condominium Act. Persons interested in the specific changes should review the bill. Code Sections affected: 36B-1-101 to 36B-1-118. Effective date: June 5th, 1984.

- S.B. 263 - Emergency Medical Services Act — This legislation establishes standards for the licensing and classification of emergency medical service (EMS) personnel and defines the services which may be performed by such personnel. The Office of Emergency Medical Services is established within the State Department of Health and the powers of the Office are defined. On and after July 1, 1985, all emergency medical service providers must have liability coverage in an amount not less than one hundred thousand dollars (\$100,000.00) per occurrence. The act provides that no emergency medical service personnel or provider shall be liable for civil damages or injuries in excess of the amounts for which such provider or personnel are actually insured, unless the damages or injuries were intentionally or maliciously inflicted. Similar immunity is extended to any physician who gives instruction to EMS personnel without being compensated therefore or who treats any patient transported in an ambulance or treats any patient prior to such transport without compensation. Code sections affected: New Article 4C is added to Chapter 16. Effective date: June 8th, 1984.
- S.B. 697 - Hospice Licensure Act — This legislation establishes licensing requirements for hospices in order to make available treatment for the physical, emotional and mental problems of the terminally ill and their families. Code sections affected. New Article 5I is added to Chapter 16. Effective date: June 8th 1984.
- H.B. 1183 - New Motor Vehicle Warranties — This legislation establishes consumers rights and manufacturers obligations with regard to the condition and fitness for use of new motor vehicles. Consumers remedies include a civil action and a third party dispute resolution process through the Office of the Attorney General. Code section affected: New Article 6A is added to Chapter 46A. Effective date: June 8th, 1984.
- H.B. 1452 - Skiing Responsibility Act — This bill defines the obligations and duties of ski area operators, skiers and aerial tramway passengers. Ski area operators are required to carry liability insurance in limits of not less than one hundred thousand dollars (\$100,000.00) per person, three hundred thousand dollars (\$300,000.00) per occurrence and ten thousand dollars (\$10,000.00) for property damage. Ski area operators, skiers and aerial tramway passengers are made liable for injury, loss or damage resulting from violations of their respective duties as set forth in this statute. Code section affected: New Article 3A is added to Chapter 20. Effective date: June 8th, 1984.

H.B. 1479 - Fees For Service Of Process — This legislation concerns the fees charged by the Secretary of State for acceptance of service of process upon resident corporations, certain nonresident corporations, unlicensed insurers, limited partnerships, non-resident motorists and other nonresident having certain contacts with this State. Persons interested in the specifics of this legislation should review the bill itself. Code sections affected: 33-1-15, 33-4-13, 47-9-26A, 56-3-31, 56-3-33. Effective date: June 8th, 1984.

H.B. 1622 - Life Insurance Coverage For West Virginia Public Employees — This legislation raises from \$20,000.00 to \$50,000.00 the amount of optional group life and accidental death insurance which public employees may purchase under the West Virginia Public Employees Insurance Act. In addition, public employees are now entitled to purchase life insurance coverage in specified amounts for the employees spouse and dependents. Code section affected: 5-16-7. Effective date: June 6th, 1984.

Richard G. Shaw
Insurance Commissioner